

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Case No. CR 18-143
vs.	)	Milwaukee, Wisconsin
	)	
WAHEBA ISSA DAIS,	)	August 24, 2020
	)	1:50 P.M.
Defendant.	)	

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**TRANSCRIPT OF SENTENCING HEARING**  
BEFORE THE HONORABLE LYNN ADELMAN  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	Office of the US Attorney By: GREGORY J. HAANSTAD 517 E Wisconsin Ave - Rm 530 Milwaukee, WI 53202 Ph: 414-297-4581 Fax: 414-297-1738 gregory.haanstad@usdoj.gov
For the Defendant WAHEBA ISSA DAIS: (Present)	Federal Defender Services of Wisconsin, Inc. By: JOHN W. CAMPION 517 E Wisconsin Ave - Rm 182 Milwaukee, WI 53202 Ph: 414-221-9900 Fax: 414-221-9901 john_camption@fd.org
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P R O C E E D I N G S

**(Call to Order of the Court at 1:51 p.m.)**

THE COURT: This is U.S. vs., is it Dais?

MR. CAMPION: Dais.

01:51 THE COURT: Dais, 18-CR-143. Appearances, please?

MR. HAANSTAD: Good afternoon, Your Honor. Greg

Haanstad for the United States.

PROBATION OFFICER: Daniel Dragolovich with

U.S. Probation.

01:51 MR. CAMPION: Waheba Dais appears in person with  
counsel, John Campion. Good afternoon.

THE COURT: Let me just -- people, when you're talking  
to the court you don't have to wear your mask. I understand  
that sometimes it makes it hard to talk.

01:51 So, the first thing, Mr. Campion, I understand you  
apologized for your late sentencing memo, but it really is an  
inconvenience to us when you do that. So I just want to caution  
you in the future as best as possible to try to get it in on  
time.

01:52 So, have you gone over -- Mr. Campion, have you gone  
over the presentence with your client?

MR. CAMPION: I have.

THE COURT: Any objections?

MR. CAMPION: No.

01:52 THE COURT: You waive full reading of supervision

1 conditions?

2 MR. CAMPION: Yes.

3 THE COURT: Government, any objections?

4 MR. HAANSTAD: No, Your Honor.

01:52 5 THE COURT: Okay.

6 As the government notes in its memo, the statutory  
7 maximum for supervised release is, pursuant to 18 U.S.C. §  
8 3583(j), is life. Otherwise I'll adopt the facts in the PSR.  
9 The guidelines are:

01:53 10 Level 35;  
11 criminal history VI;  
12 240 months range;  
13 1 to 3 years supervised release;  
14 40,000 to 250,000 fine;  
01:53 15 \$100 assessment.

16 And if we're ready to proceed to sentence,  
17 Mr. Campion, I'll hear from you and/or your client.

18 MR. CAMPION: Thank you. And, Your Honor, I realize  
19 it does nothing to mitigate it, I am sorry.

20 THE COURT: Okay.

21 MR. CAMPION: I worked like -- I worked a lot on this.

22 THE COURT: I know.

23 MR. CAMPION: It was hard to put together.

24 All right. Waheba Dais was a woman with promise. She  
01:53 25 knew she was intelligent, she loved school and did well, and had

1 goals including going to a better high school and then going to  
2 college.

3 But she grew to learn that those goals were  
4 incompatible with her culture, with what her family wanted and  
01:53 5 didn't want for her. So instead of continuing college, her  
6 father made her marry her first cousin, Ibrahim. That was the  
7 first of a series of crushing disappointments in her life that  
8 played a role here.

9 Later on in life as an adult, she learned that maybe  
01:54 10 she still could be something. She went to school at Kaplan  
11 University. She said she did well. Kaplan didn't comply with  
12 the request for records.

13 THE COURT: What university?

14 MR. CAMPION: Kaplan.

01:54 15 THE COURT: Okay.

16 MR. CAMPION: And she even got a job there and really  
17 liked it. And did some volunteer work. Until her husband  
18 objected. So she pulled out. That was what she did, that was  
19 what she knew. Your husband objects, you pull out.

01:54 20 She had young children and needed his help so she had  
21 to return to this traditional role. Yet he was never a husband  
22 to her. It was, as I described in my memorandum, a concubinage,  
23 and made more clear in Dr. Hanusa's psychological evaluation.

24 Years later her dad died. And then years later after  
01:55 25 that she eventually, after basically clawing the money out of

1 her sisters, received her inheritance money. And I think it was  
2 in 2013 she actually made a down payment on the house that she  
3 was ultimately arrested in at 3441 East Cudahy Avenue. For  
4 once, at least in the beginning, she had all of her kids under  
01:55 5 one roof and it was a high point for her.

6 But it was immediately difficult times. For good  
7 reason, her older kids had a great deal of emotional baggage  
8 from the previous years, particularly her son Issa. There were  
9 deep feelings of abandonment earlier, as I laid out in my memo.

01:55 10 So rebelling against her, destroying the home in part,  
11 eating all the food was part of the response. Her money dried  
12 up. Her house fell into disrepair. There was a terrible sewage  
13 problem. The agents who made the arrest described in terrible  
14 detail what they saw. And it's part of the reports from Child  
01:56 15 Protective Services that went to the Court -- that went to the  
16 probation office which they have.

17 All the while she was not effectively addressing her  
18 own significant mental health issues, borne of her early years  
19 of familial nullification, the terrible trauma and isolation  
01:56 20 brought upon her by her husbands which left her utterly lonely.

21 And add to this desperate mix her affinity for and  
22 facility with computers and subsequently social media and  
23 essentially the pursuit of herself in these dark hours.

24 This background, these mental illness issues, the  
01:57 25 alienation and isolation, the loneliness, these themes are

1 strikingly common in people drawn to ISIS and their propaganda,  
2 according to a report from the Center on National Security at  
3 Fordham Law School. Many of those accused of trying to join  
4 ISIS "had expressed some form of social alienation, loneliness  
01:57 5 or identity issues."

6 A study of those drawn to extremist ideologies  
7 conducted by researchers at Georgetown noted that such people  
8 "are likely to suffer from some psychological disturbance,  
9 increasing the likelihood of extremist ideologies."

01:57 10 The report further noted: "An individual who has  
11 suffered trauma may disassociate himself or herself from her  
12 identity and seek alternative world views to replace this loss.  
13 These new extreme ideologies are frequently grounded in a  
14 religion that gives meaning to pain, provides a community and  
01:58 15 sense of self and others a system of behavior and identity  
16 particularly appealing to psychologically traumatized people."

17 I say that because I think that fits Ms. Dais's  
18 situation very well.

19 With regard to the material supplied to the Court by  
01:58 20 the government, I would say, and I don't mean to sound  
21 sarcastic, there was no surprise that the government recommends  
22 a maximum sentence. Driven by the guidelines perhaps, this  
23 appears to simply be the government's reflexive response to  
24 these type of cases.

01:58 25 Ms. Dais's case warrants nothing of the kind. As to

1 why she would engage in this online conduct, the government  
2 notes, quoting from the memorandum, "Dais indicated that she  
3 supported ISIS because she was bored and suggested she was not  
4 serious about what she was doing. The overwhelming volume of  
01:59 5 Dais's online postings and communications and their level of  
6 detail concerning how to commit attacks belies that suggestion.  
7 Dais was online day and night working tirelessly to gather and  
8 disseminate pro ISIS information and generating her own  
9 persuasively written content."

01:59 10 That's from the government's memorandum.

11 Dais -- Waheba Dais said to the agents in the hours  
12 after her arrest that -- she used the word "bored." Loneliness,  
13 isolation, alienation would have been more accurate at that  
14 time.

01:59 15 The government actually -- what I just read there  
16 actually highlights a key aspect of Waheba Dais's conduct as  
17 Dr. Hanusa wrote about. Quoting from Dr. Hanusa's report:

18 "This dynamic is important in this case. It moves  
19 beyond a simple explanation for Waheba's professed need for male  
02:00 20 attention to include scientific evidence for increased  
21 impulsivity, risky decision-making, and reward system  
22 dysfunction in individuals with extreme OCD."

23 I failed to say that when I said this dynamic, he's  
24 talking about her extreme OCD.

02:00 25 I'm going to talk briefly about Dr. Vidino's report.

1 It's an 18-page report that I think stem from several of his  
2 sources. The first 16 pages talk about ISIS and the  
3 *ISIS-related mobilization in America*, as he calls it, and then  
4 also the role in western culture, particularly America, of women  
02:00 5 in ISIS. In the final two pages he summarizes what he learned  
6 about Ms. Dais.

7 Dr. Vidino's paper argues -- excuse me. He talks  
8 about the utility of western women of ISIS. He writes:

9 "Their roles unveil a considerable range of engagement  
02:01 10 though the metric for their varied contributions must be  
11 adjusted when evaluating the extent and significance of their  
12 involvement. Western women act as wives and mothers as well as  
13 propaganda disseminators, online recruiters and fundraisers,  
14 they do not fight like their male counterparts."

02:01 15 That's at page 16.

16 So Dr. Vidino's paper argues that while women who seek  
17 to assist ISIS and do make contributions, these contributions  
18 are at a lower level and cannot be as significant as men who can  
19 fight and try to fight or do fight. That opinion undermines the  
02:02 20 government's use of their own four cases in their memorandum at  
21 14 and 15. This is the *Abdella Tounisi* -- I'm not going to  
22 pronounce these names. The Court has these cases at page 14 and  
23 15. There are four cases and five defendants.

24 All of these individuals, all male, made plans to  
02:02 25 travel to Turkey or elsewhere in the Middle East, and all



1 purchased airline tickets to do so, to become fighters. Three  
2 of them were arrested at the airport heading to their flights.  
3 Their actions, by Dr. Vidino's argument, were at a higher level  
4 than Waheba Dais's.

02:02 5 And in a previous sentencing argument from the  
6 government in *United States vs. Jason Luedke*, the government  
7 argued: "Volunteering oneself to a foreign terrorist  
8 organization is arguably the most dangerous form of material  
9 support."

02:02 10 THE COURT: Just let me ask you this and maybe the  
11 government, too. All the cases about -- that deal with this  
12 issue -- maybe not all of them, but most of them seem to be  
13 these people that want to get on the airplane and fly to Turkey  
14 and help ISIS in that way. I haven't been able to find any  
02:03 15 cases that are sort of like a woman going on the internet and  
16 talking to people. I mean, are there any cases? Have you found  
17 any?

18 MR. CAMPION: If the Court's referring to me --

19 THE COURT: I'm talking to you, Mr. Campion, but I  
02:03 20 guess I -- if you found them I assume Mr. Haanstad found them,  
21 too.

22 MR. HAANSTAD: I'm not aware of any cases that involve  
23 that specific type of defendant. I think it's more a matter of  
24 examining the conduct that was at issue in those cases,  
02:03 25 comparing it to this one.

1 THE COURT: All those cases are different than this  
2 case.

3 MR. HAANSTAD: Yeah.

4 THE COURT: This case is sort of -- I haven't seen any  
02:03 5 like this exactly. And I guess I'm just pointing that out.  
6 But, go ahead, I don't mean to interrupt you.

7 MR. CAMPION: So, going back to Dr. Vidino's paper, he  
8 talks about what Waheba Dais did do. That -- this is his words:  
9 "That she was constantly engaging with several interlocutors  
02:04 10 online." That would be my take.

11 Nothing -- he wrote, "Nothing demonstrates this more  
12 than the fact that 17 of her online friends pledged allegiance  
13 to ISIS in response to one of her posts."

14 When he says "nothing demonstrates," he's talking her  
02:04 15 persuasiveness.

16 "Nothing demonstrates her persuasiveness more than  
17 that 17 of her online friends pledged allegiance to ISIS in  
18 response to one of her posts."

19 Well, these are also people who are looking at her  
02:04 20 posts. There is no indication from either Dr. Vidino nor the  
21 government, no one claims that these were new adherents to ISIS  
22 or that Waheba Dais had converted them. It is, in his own  
23 words, an "echo chamber." And the fact that 17 people agreed I  
24 don't think is terribly shocking or surprising or indicative of  
02:05 25 anything.

1 He also points out and thought this was important,  
2 that she said that -- she said to her -- and it's in the plea  
3 agreement, it's in the presentence report, this communication  
4 that Waheba Dais had with someone named AK.

02:05 5 "She said to her contact AK that she knew the ISIS  
6 military trainer in Raqqa, which was then the capital of the  
7 self-proclaimed Caliphate."

8 And then he wrote: "Having this kind of connection is  
9 not very common among United States ISIS sympathizers and is,  
02:05 10 therefore, a crucially important feature that sets her apart  
11 from most of her peers."

12 Yet nothing that I've seen or been made aware of  
13 demonstrates that she was speaking the truth here; that she  
14 actually did talk to an ISIS military trainer.

02:05 15 Further, it runs contrary to what Dr. Vidino wrote  
16 about -- in his paper about women in ISIS, that "fighting is not  
17 among women's roles. Maybe it will be in the future," he  
18 writes, "but that it's not."

19 Waheba Dais maintains that she made that up and  
02:06 20 nothing demonstrates that she did not make that up.

21 Dr. Vidino -- I don't know if it's Vidino or Vidino.  
22 Vidino I'm going to go with. Dr. Vidino also quotes from former  
23 FBI director Comey. And he gave I guess an interview to the  
24 Huffington Post in July of 2019, and he's talking about what is  
02:06 25 different now.

1           It's, you know -- he talks about how ISIS or terrorism  
2 isn't your grandfather's terrorism, or something like that. And  
3 he writes about -- he talks about one aspect of it. And I'm  
4 going to argue about -- I'm going to talk about this aspect  
02:06 5 applying to so many things in our current life.

6           He writes, "All that propaganda is in your pocket."  
7 In the form of a cell phone he's talking. "And the terrorist is  
8 in your pocket. You could have direct communication with a  
9 terrorist in Syria all day and night. And so the effect of  
02:07 10 that, especially on troubled minds in kids -- it works! It's  
11 buzz, buzz, buzz, buzz, buzz. It's the constant feed, the  
12 constant touching, so it's very, very different and much more  
13 effective at radicalizing than your grandfather's al Qaeda  
14 model."

02:07 15           I think what he's also touching upon is he's talking  
16 about part of our western culture and our free speech and our --  
17 the lack of limits that other societies have that we don't.  
18 There are downsides obviously. There are downsides in terms of  
19 what the internet offers. Internet is incredible. It offers,  
02:07 20 you know, all kinds of communications. It's been helpful  
21 towards so many things, and yet it has a dark side as noted  
22 partly in Dr. Vidino's report. And I think the government also  
23 mentions it: child pornography and the dissemination of that.

24           But also just things like, you know, well beyond  
02:08 25 simply Islamist terrorism: right-wing terrorism in this

1 country, some left-wing terrorism in this country are spurred on  
2 by this; government -- crazy conspiracies involving the  
3 government. All of that is part of the downside of this, part  
4 of the speech.

02:08 5 Now, what Ms. Dais did broke laws, undoubtedly. She  
6 pleaded guilty to this. And the source of why she did that, you  
7 know, it's hard to piece these things together. But we have  
8 some pretty good pieces of this puzzle. This trajectory of her  
9 life combined with her own talents, combined with the utter  
02:08 10 misery she had known, the trauma, the alienation, the perception  
11 changes that trauma causes, that this seemed like a good idea.  
12 It wasn't. It was terribly dangerous. It was -- you know, I  
13 called it at least reckless. The government actively calls it  
14 very dangerous.

02:09 15 And Ms. Dais knows that. She knows that -- you know,  
16 we don't know -- we can't say what all people did with this  
17 information. We don't know of anything that somebody did that  
18 was -- that caused actual harm to people, which we're very  
19 thankful for. Maybe it was very persuasive for some people.

02:09 20 But in some ways it's hard to measure. The bottom line is, you  
21 know, she pled guilty to it because she was guilty and she is.

22 Now, with regard to the sentence, the Court obviously  
23 knows what we're asking for. And I acknowledge, it's a lot. We  
24 asked for her to be -- she wouldn't be released. We asked for  
02:09 25 her to take into account this two-plus years she's had mostly at

1 Waukesha, which I am a witness to as how miserable it was for  
2 her. As bad as it is -- jail is, you know, lousy -- some jails  
3 are worse than others. I think the marshals will probably tell  
4 you that this particular jail is difficult, especially for  
02:10 5 women. And she was utterly alienated at Waukesha. So, I mean,  
6 maybe she's got it coming to her. Some folks might think that,  
7 which is fine. But it was awful.

8 One of the good things about the jail has been that  
9 for the first time in her life she's being medicated now.  
02:10 10 Actual medicine that she takes for which she had her own  
11 barriers between accepting western medication. Her own stigmas.  
12 *I can't take medicine, it's against my religion.* Her inability  
13 to access healthcare very well. Her husband's stigma about it.  
14 Didn't want that to happen. Transportation issues.

02:10 15 She actually did try to get into therapy on a number  
16 of occasions in the 2000s. And that's part of the records that  
17 Dr. Hanusa reviewed with the reams of reports that our office  
18 sought and obtained from various record providers.

19 So getting back to this time-served thing, I think  
02:11 20 it's -- it is sufficient to punish her --

21 THE COURT: That's what you're requesting is a  
22 time-served sentence, correct?

23 MR. CAMPION: Yes, sir.

24 THE COURT: Okay. Go ahead.

02:11 25 MR. CAMPION: The punishment -- I mean, it's probably

1 longer than her activity lasted, but it was also significant  
2 punishment for her.

3 But the most serious punishment, if the Court were to  
4 give her five more years, it would pale in comparison to what  
02:11 5 happens to her, which is: she gets deported. It seems obvious  
6 that she would be deported, but we wanted to at least, you know,  
7 baseball lingo, *run out those ground balls*. Is there any  
8 chance.

9 And we thought we had two things working for a while:  
02:11 10 this derivative citizenship either from her father or from --  
11 because she was a -- she was here lawfully. You know, we just  
12 had to use an actual litigation attorney to help us out with  
13 that. And, no, it's not going to happen as most everyone would  
14 imagine.

02:12 15 THE COURT: She was here lawfully because she married  
16 somebody who was, what, a citizen?

17 MR. CAMPION: Yes.

18 THE COURT: But she's not a citizen.

19 MR. CAMPION: She's not. Unfortunately. And I think  
02:12 20 that's also a cultural thing. She never took the initiative to  
21 say, you know, I am going to do this for myself. Regrettably.  
22 Very regrettably she did not do that.

23 So she will -- her best fate, and it's likely  
24 actually, is when she's done with her sentence she's deported  
02:12 25 after some period of time and she goes to Jordan. She has a

1 sister that lives there. So she can -- she does have the  
2 ability to make a new start there.

3 THE COURT: What other possibility would there be  
4 besides that?

02:12 5 MR. CAMPION: Besides going to Jordan?

6 THE COURT: Yeah.

7 MR. CAMPION: I don't know. I mean, that's -- she  
8 cannot go to Israel. She was never an Israeli citizen as we  
9 found out.

02:13 10 Well, I mean -- I forgot one step. My client just  
11 reminded me. She would fly to Jordan and hopefully be able to  
12 move to the West Bank where her sister lives. I'm sorry, I  
13 forgot that step.

14 So it would be -- a plane to Jordan is what I mean.  
02:13 15 And then -- because she probably could not fly into say Ben  
16 Gurion Airport because of her conviction. But she plans to  
17 eventually arrive at West Bank.

18 THE COURT: Okay.

19 MR. CAMPION: So I'm going to say one last -- just a  
02:13 20 couple last things I've got.

21 So these -- there is the James Comey quote,  
22 interesting anyway, comes from an article called, "The FBI" --  
23 "If you try to join ISIS through Twitter, the FBI probably knows  
24 about it." That's the title of the Huffington Post post.

02:13 25 I think that's kind of interesting, is because I think



1 that's indicative of what happened here. The FBI was  
2 essentially on to her and began monitoring her in early January  
3 of 2018, and by the end of the month had one of their employees  
4 talking with her and, you know, keeping a finger on the pulse, I  
02:14 5 guess.

6 When the -- when Dr. Vidino talks about engaging with  
7 several interlocutors, I think he's saying that quite literally.  
8 There weren't that many that were actively asking for  
9 significant advice.

02:14 10 Now, I'm not trying to downplay what she did with the  
11 FBI's own undercover person. You know, the things she said were  
12 hideous at the time. And that's why -- partly why we're here.  
13 And it's -- if I'm the government, I'm going to cut and paste  
14 those to the sentencing memorandum as well. But there just  
02:14 15 simply were not that many.

16 So they were monitoring her as of early January and  
17 essentially pulled the plug on this thing in the middle of June,  
18 about five months later. For all of her alleged sophistication,  
19 she left behind digital evidence at every turn.

02:15 20 And one thing that Dr. Vidino's paper talks about is  
21 how a lot of people online were -- who become ISIS supporters  
22 and whatnot online, they have an avatar. They have something  
23 that resembles something about ISIS or support it somehow,  
24 including apparently just even showing a copy of the Detroit  
02:15 25 Lions' look for some odd reason.

1           Waheba Dais's avatar was a photo that we would all  
2 recognize, I believe, of a young blue-eyed Ya Sitti girl who in  
3 a moment of misery, on the run ironically from ISIS, is holding  
4 her face probably to guard against the sunlight, staring into  
02:15 5 the camera, and it is a haunting and mesmerizing look. And that  
6 I think shows how much this was lost on her. She didn't get  
7 that that person was a victim of ISIS. Made it her avatar. I  
8 just think that's a telling aspect of this case.

9           I would ask the Court to consider those arguments.

02:16 10          Thank you very much.

11          THE COURT: Your client want to say anything?

12          MR. CAMPION: Yes.

13          THE DEFENDANT: Your Honor, I was trying to write  
14 something. If I could just say what I feel.

02:16 15          THE COURT: Sure. Get as close to the mic as you can  
16 so I can hear.

17          THE DEFENDANT: Okay. I'm here today filled with  
18 guilt, shame and remorse. I'm ashamed of my actions and the way  
19 it affected the lives of my loved ones, especially my children.  
02:16 20 I was blind to the fact and to the truth why I was posting  
21 hateful things online and never thought how that might have  
22 affected some people.

23          THE COURT: Can you speak a little slower?

24          THE DEFENDANT: Sorry.

02:17 25          I was blind to the truth. While I was posting hateful

1 things online I never thought about how it might have impacted  
2 people in the country that I had called home for the last 28  
3 years, in which my children were born and still reside.

4 I am thankful that no one got hurt based on my  
02:17 5 actions. The last two years in jail were eye-opening for me and  
6 have showed me the errors of my ways.

7 I want to apologize to Your Honor for taking all the  
8 resources of this court and for -- I want to apologize to my  
9 kids for hurting them by taking their mother out of their lives  
02:18 10 and putting them through a lot of pain. It breaks my heart when  
11 I see the sadness I inflicted on them through no fault of their  
12 own.

13 I have been suffering from mental illness for years  
14 which I left untreated because I was in denial of my illness.  
02:18 15 And now I am of a clear mind since being on medications  
16 regularly and feel that I am a new person with much better  
17 judgment.

18 Your Honor, I wish that you can give me a chance to  
19 right my wrongs and to prove to the world that I can be a worthy  
02:18 20 human being. Even getting deported, I'll still be thankful for  
21 the opportunity to have spent the last 28 years in this great  
22 country and was able to raise my kids here.

23 Again, I want to apologize for not seeing the evil as  
24 it was. I feel like my blindfold has been lifted off my eyes.  
02:19 25 And, Your Honor, but I beg for your mercy. Please give me a

1 chance to be a mother again.

2 Thank you.

3 THE COURT: Thank you.

4 Mr. Haanstad?

02:19 5 MR. HAANSTAD: Just very briefly, Your Honor.

6 Both parties, including the government, have submitted  
7 lengthy sentencing memoranda. And I don't want to belabor the  
8 points in those memoranda, but I just want to touch on a few  
9 things. And, of course, if the Court has any questions I'd be  
02:19 10 happy to answer them.

11 Of course, the Court has to consider the factors set  
12 forth in Section 3553(a) of Title 18, those being grouped into  
13 three general categories:

14 First, the history -- I'm sorry. First, the nature  
02:19 15 and circumstances of the present offense;

16 second, the history and characteristics of the  
17 defendant; and

18 third, the need for a sentence to satisfy the goals of  
19 the federal sentencing scheme.

02:20 20 First of all, with respect to the nature and  
21 circumstances of the offense. For more than two years the  
22 defendant actively promoted and recruited people to join ISIS, a  
23 violent hateful terrorist group that seeks to degrade and to  
24 murder whole categories of people.

02:20 25 This wasn't just passive participation by the

1 defendant. She was not just a passive listener in an echo  
2 chamber or a re-poster. She actively hacked accounts, taught  
3 others to hack accounts. Not only recruited people but coached  
4 them on how to make explosives, how to prepare and use ricin.  
02:20 5 Went so far as to talk about specific target selection to make  
6 the most useful -- and by "useful" meaning catastrophic use of  
7 ricin.

8 And I think, given the nature of this offense, there's  
9 something of a risk of minimizing the conduct involved and in  
02:21 10 suggesting that no harm came from that conduct. In large part,  
11 the suggestion might be that because she's not that serious or  
12 sophisticated.

13 But first, Dr. Vidino concluded that Ms. Dais was  
14 quite sophisticated. She was intelligent. She made real  
02:21 15 contributions to the area of active ISIS promotion and  
16 solicitation of people to join ISIS.

17 Second, any claim that no harm flowed from her conduct  
18 is unfounded in light of the fact that at least one Facebook  
19 follower, Mustafa Mousab Alowemer, was arrested and charged last  
02:21 20 year in a plot to bomb a site in Pennsylvania.

21 And there is to some extent -- the nature of the  
22 offense makes it difficult to determine whether or not there are  
23 victims. Ms. Dais was communicating with people using aliases  
24 online, which means that we probably can't ever know the full  
02:22 25 impact of her conduct.

1 Again, briefly with respect to the history and  
2 characteristics of the defendant, the government would --

3 THE COURT: Can you get a little closer to the mic?

4 MR. HAANSTAD: I'm sorry.

02:22 5 THE COURT: That's okay.

6 MR. HAANSTAD: The government would agree that aspects  
7 of Ms. Dais's history and characteristics are mitigating. She  
8 has no prior criminal history. And the PSR and the report by  
9 Dr. Hanusa detail very difficult and tragic life circumstances  
02:22 10 that involve abuse and neglect.

11 But the government's sentencing recommendation here  
12 does take these things into account. You know, the resolution  
13 of this case, the ability to plead to only one count capped her  
14 exposure at least in terms of imprisonment. To be sure, it's a  
02:23 15 high cap of 20 years, but it is a cap and it's below what she  
16 would have otherwise been exposed to had the case not been  
17 resolved along these lines.

18 So the government's position, and again it's set forth  
19 in detail and at length in its sentencing memo, is that a  
02:23 20 sentence of 20 years is consistent with the purposes of  
21 sentencing.

22 Congress and the Sentencing Commission have concluded  
23 that supporting a foreign terrorist organization -- even online  
24 from home but especially under the circumstances employed by  
02:23 25 Ms. Dais -- is a grave offense against the country and must be

1 seriously punished.

2 And again, for those reasons the government is  
3 requesting a sentence of 20 years.

4 THE COURT: Okay, thank you.

02:24 5 Let me take a few minutes. I'll be back. Thanks.

6 (Recess taken at 2:24 p.m., until 2:37 p.m.)

7 THE COURT: All right. In imposing sentence I  
8 consider the 3553(a) factors and then impose a sentence  
9 sufficient but not greater than necessary to satisfy the  
02:38 10 purposes of sentencing.

11 And we've pretty much talked about what the defendant  
12 did. She attempted to provide support for potential terrorists  
13 by giving instructions on how to make explosive devices and  
14 poison and how to prepare for an attack. This was all internet  
02:39 15 activity, and fortunately she was discovered before anyone she  
16 inspired or assisted actually completed an attack.

17 But nevertheless, her -- the actions really did place  
18 the community in danger, you know, and were very, very serious.  
19 I mean, it's a -- I mean, that's the hardest argument to  
02:39 20 overcome for the defendant, is that this is a very serious  
21 offense.

22 There was also hacking into Facebook accounts and  
23 taking over Facebook accounts and changing the profile picture  
24 and then accessing them from IP addresses that link to her  
02:40 25 residence.

1           So she obviously had some skills with respect to the  
2 computer. She's obviously intelligent. It's just unfortunate  
3 that she used her skills in such an unproductive and destructive  
4 way.

02:40 5           And the kinds of things she talked about on the  
6 internet. Now, I agree it was on the internet. That's one of  
7 the issues in this case. There's no cases like this that either  
8 the parties to the -- the defendant, the prosecutor, or the  
9 Court has been able to really uncover. I mean, most of these  
02:41 10 cases involving terrorism seem to be men who want to either  
11 attempt to or do fly to the Middle East to -- presumably to  
12 fight or to take part in some way.

13           The idea of somebody being on their computer and  
14 passing out information, there's not -- there's not cases  
02:41 15 talking about that. So I don't really have much comparable to  
16 go on.

17           But it is very serious. I mean, I don't know how many  
18 people are likely to kind of read this kind of stuff on the  
19 internet and then take -- participate in activities because of  
02:42 20 it.

21           I mean, it would seem to me that somebody who would  
22 take advice from somebody who they don't know on the internet  
23 and somehow get into doing something destructive as a result of  
24 that, I'm sure it's possible and probably it's happened. It  
02:42 25 seems to me that the person who actually did something after



1 listening to this defendant make a communication over the  
2 internet, it would probably likely be pretty disturbed  
3 themselves.

4 But, the defendant -- apparently the social media  
02:43 5 channel that was used was directed to lone wolves. And I'm sure  
6 there are people like that out there. And she did this for a  
7 fairly extensive period of time; it was like a year, year and a  
8 half to two years.

9 Now, another sort of, I think, difficulty. I mean,  
02:43 10 there's no doubt, and I'll talk about this in a second, the  
11 defendant really did have a lot of difficulty in her own  
12 background: mental health issues; I mean, an oppressive father.  
13 And then an arranged marriage where essentially she's told by  
14 her father to marry this relative and that's how she comes to  
02:44 15 Wisconsin. And the relative is very controlling. A loveless,  
16 physically-abusive marriage. No income. No relative, no  
17 friends in Milwaukee. No support from her parents. And then  
18 small children to care for. Her husband's abusive, begins  
19 beating on her after she moved in. And there's also the -- her  
02:45 20 husband's involved in sexually abusing her daughter.

21 Finally, she leaves and flees to her parents' house in  
22 Staten Island and takes her children there. But that further  
23 alienates her father. So then she winds up sending her children  
24 back to Milwaukee. And then she comes back here and gets into  
02:45 25 another marriage which is also not -- she's very controlled.

1           So there's clearly a lot of issues that she had. It's  
2 a little perplexing to me, but these things I suppose have their  
3 own logic.

4           How she -- how her own sort of abuse that she  
02:46 5 suffered, how that gets her into the outlet of supporting ISIS  
6 online seems to me hard to understand. I mean, because ISIS is  
7 certainly not a place where -- I mean, as far as I understand --  
8 I'm not an expert on it, but as far as I understand it's a place  
9 where there's not much respect for women.

02:46 10           So then she's arrested in June of 2018, and basically  
11 she admits what she did. And she tells the -- she acknowledges  
12 that this conduct occurred during a very low period in her life.  
13 And she clearly was mentally ill, lonely, depressed. Wanted  
14 attention.

02:47 15           But it's -- again, you get into this irony. I can  
16 understand all that and wanting attention, but then why -- why  
17 she chooses ISIS, supporting ISIS as an outlet for getting  
18 attention from men online?

19           So there are some things about this case that are  
02:47 20 really difficult: the absence of much precedent; the fact that  
21 it's a really bad offense.

22           But a defendant who is 48 years old and has never had  
23 any kind of criminal record and has been the subject of abuse  
24 and in some ways is somewhat sympathetic. Going to be deported  
02:48 25 to the Middle East where she hasn't been or lived in three

1 decades. No previous radical ties or conduct. Her children  
2 describe her as a kind, gentle, and caring person who didn't  
3 hurt anybody. The medication does seem to have helped her.

4 The guidelines -- I think the range of the guidelines  
02:49 5 is extraordinarily high. The range is high because of guideline  
6 3A1.4, which requires that in cases related to terrorism the  
7 offense level be increased by 12. And if the resulting level is  
8 less than 32, then it be increased to 32.

9 So here the offense level is increased from 26 to 38.  
02:49 10 And then the guideline also provides that the criminal history  
11 category be deemed the highest there can be, VI, regardless of  
12 the defendant's actual prior record.

13 So this means that a defendant in a case like this  
14 faces a guideline range way in excess of the statutory maximum  
02:50 15 regardless of what she actually did and regardless of whether  
16 she has any prior record or she has a terrible prior record.

17 You know, in this sense 3A1.4 represents -- or  
18 resembles the child pornography guideline which has been roundly  
19 criticized by the courts in that it recommends sentences near or  
02:50 20 above the maximum even in mine-run cases.

21 So this is totally contrary to the purposes of  
22 sentencing in Section 3553(a), including the notion that  
23 sentences should be individualized and proportionate, and that  
24 we should distinguish between the worst offenders and those who  
02:50 25 are less dangerous.

1 See *U.S. vs. Dorvee*, D-O-R-V-E-E, 616 F.3d at 186-87.

2 And this aspect of the guideline is also contrary to  
3 the whole theory behind the guidelines, which is that the  
4 offense level will reflect the seriousness of the offense and  
02:51 5 will increase incrementally based on specific aggravating facts;  
6 and, that the criminal history category will reflect the risk to  
7 the public given the defendant's prior record.

8 As Judge Charles Bryer has noted, the terrorism  
9 enhancement "takes a wrecking ball" to this whole idea.

02:51 10 See *U.S. vs. Alhaggagi*, 372 F.Supp. At 1013.

11 Terrorism cases are no doubt serious, but  
12 automatically increasing a defendant's criminal history to  
13 reflect the seriousness of the charged offense does seem  
14 misguided according to Judge Breyer. That's at page 1014 of his  
02:51 15 opinion.

16 Further, as Judge Kane of Denver has noted in  
17 discussing the same guideline, "Material support cases," which  
18 is what this is, "can involve a wide range of conduct."

19 You can go and -- you can go to the Middle East and  
02:52 20 directly help ISIS, or you can be online here and communicate  
21 with people. Yet this 3A1.4 guideline frequently results in  
22 guideline ranges that equal or exceed the maximum sentence  
23 without differentiating between any kinds of different levels of  
24 conduct.

02:52 25 See *U.S. vs. Jumaev*, J-U-M-A-E-V, 2018 U.S. District

1 Lexus 119916 at pages 28 and 29.

2 And this is unlike the approach otherwise applicable  
3 under Guideline 2M5.3 which includes enhancements based on the  
4 type of assistance provided and the impact of any completed  
02:53 5 acts.

6 So here we have no -- as far as we know there is no  
7 impact of any completed acts, at least in the sense that some  
8 victim was harmed by it. And the type of assistance provided is  
9 certainly different than in many of these cases that have  
02:53 10 been -- that are reported.

11 Finally, as both Judge Breyer and Judge Kane noted,  
12 the guideline was enacted pursuant to a congressional directive  
13 and absent any empirical evidence.

14 See *Alhaggagi* at 1014 and 15.

02:54 15 That is, Congress ordered the Commission to enhance  
16 this guideline in this way, and guidelines that are created in  
17 that fashion do not exemplify the Commission's exercise of its  
18 characteristic institutional role --

19 See *Kimbrough vs. U.S.*, 552 U.S. at 109.

02:54 20 -- and, therefore, are generally entitled to less  
21 respect.

22 See *U.S. vs. Reyes Hernandez*, 624 F.3d at 418.

23 So the guidelines here really are -- provide very  
24 limited -- very limited guidance. And I don't know if I need to  
02:54 25 say anything more on that.

1 I mean, I suppose you could just sum up a few things:

2 In this case the defendant did not attempt to purchase  
3 any weapons;

4 she had no known contact with any members of ISIS;

02:55 5 she did not associate with terrorists, or try to  
6 support them while in the armed forces or in law enforcement;

7 she didn't buy a ticket to travel anywhere;

8 she didn't take pictures of any monuments to encourage  
9 an attack;

02:55 10 she didn't serve any leadership role of any  
11 organization;

12 and she didn't solicit funds from people or attempt to  
13 recruit them.

14 And, so, I mean, I'm not -- I'm not at all minimizing  
02:56 15 the defendant's conduct:

16 This was a very serious offense;

17 she appeared to be dedicated to ISIS;

18 and she -- she said some things that -- on the  
19 internet that were extremely destructive and harmful and could  
02:56 20 have the potential of leading to even greater harm.

21 So, and ISIS was engaging in horrific conduct and the  
22 defendant was aware of this.

23 And she was a prolific online promoter of ISIS.

24 And she provided information how to commit terrorist  
02:56 25 attacks.

1 And, as indicated in the report from the government's  
2 witness, this Dr. Vidino, this kind of propaganda is a part of  
3 ISIS's recruitment and radicalization strategy.

4 And she did -- she wasn't just a sympathizer or a  
02:57 5 passive follower, but she did promote ISIS very aggressively.  
6 And they call her -- this is -- she played this so-called *travel*  
7 *agent* role, or *devil on a shoulder* that is encouraging the  
8 so-called lone wolves.

9 So even though I think the guidelines in this case are  
02:57 10 very flawed, that's not meant to suggest that this was not a  
11 very serious offense.

12 So, and she was also, as I said, an accomplished  
13 hacker and identity thief.

14 And the government's memo on pages 6 through 8  
02:58 15 includes a fairly lengthy list of the followers that she had who  
16 wanted information about committing attacks.

17 So I do agree, though, that Mr. Champion's suggestion  
18 that I think there's a kind of a reflexive recommendation on the  
19 part of the government in these kinds of cases of always sort of  
02:58 20 recommending the max without looking at all the specific  
21 details. And that is because it's a serious offense. And  
22 that's I think the flaw in the guidelines, too. They just say  
23 this is a really very serious offense and, therefore, we're  
24 gonna recommend the max in just about every case.

02:59 25 And it is a very serious offense. But there still

1 should be -- the whole theory of the guidelines is there should  
2 be distinctions between levels of activity.

3 In fact, this really is not a dispute about what the  
4 defendant did; it seems that the greater mystery is why. And  
02:59 5 defendant states that she was depressed and mentally ill and  
6 that she convinced herself that none of the people she  
7 communicated with would actually do anything. But that -- it's  
8 hard to fully grasp that because this clearly was not something  
9 that was communicated in any sense of -- that it was not serious  
02:59 10 or that she was in any way holding back.

11 You know, that's why I say, the government indicates  
12 that it's hard to square her conduct with boredom or fooling  
13 around. She was -- there's no suggestion of that in any of the  
14 communications she made.

03:00 15 And I've carefully reviewed the report from Dr. Hanusa  
16 for why the defendant may have engaged in this behavior.  
17 Dr. Hanusa performed detailed testing. He noted severe  
18 depression and pretrial -- or, I'm sorry, posttraumatic distress  
19 symptoms linked to abuse over the course of her lifetime. She  
03:00 20 has a strong tendency to present herself in a way that attempts  
21 to gain a favorable impression on others consistent with  
22 profiles of battered women. She also endorsed obsessive  
23 compulsive symptoms.

24 The doctor on testing for the presence of psychopathy,  
03:01 25 indicated that there was evidence of pathology, manipulation,



1 impulsivity. And her test scores, that is, the defendant's test  
2 scores, indicate significant trauma.

3 Dr. Hanusa states: "The importance of this data is  
4 that defendant's behaviors and conduct have been impacted by  
03:01 5 that trauma which has in turn impacted her personality,  
6 emotional stability and decision-making. This is a difficult  
7 case with many layers of complexity as reflected in the results  
8 of the psychometric tests utilized here."

9 Oh, and I think I misspoke when I earlier said that  
03:02 10 there was no evidence of recruitment. I think that was a  
11 mistake. The defendant was involved in recruitment, although  
12 it's not clear how successful that was.

13 Dr. Hanusa diagnosed major depression, posttraumatic  
14 stress syndrome, obsessive compulsive disorder and generalized  
03:02 15 anxiety disorder.

16 In describing the offense, defendant told the doctor  
17 that she knew -- or that she did some stupid things, she was  
18 talking to the wrong kind of people, she wanted attention, and  
19 didn't know at first that people would take her seriously. She  
03:02 20 wanted people to think that she was smart and cool and she liked  
21 the attention.

22 In his conclusions Dr. Hanusa indicates that  
23 defendant's high levels of OCD symptoms suggest that "she may  
24 have issues with impulsivity along with risky decision-making  
03:03 25 and biased probabilistic reasoning."

1 He indicates that "dysregulated lonely individuals  
2 struggle to make themselves feel better, which appears to be the  
3 cause here."

03:03 4 Dr. Hanusa concludes that rather than prison, "it is  
5 recommended that defendant be given an outcome that will allow  
6 her to be maintained in the community adhering to a plan that  
7 includes psychotherapy and intensive community supervision."

03:03 8 I don't think that there is a need for a sentence at  
9 the maximum or near the maximum here. Such sentence should be  
10 reserved for the worst offenders, and it's hard to see how the  
11 defendant falls into this category.

12 She provided information only, not weapons or funds.  
13 And there's no proof that anyone used her information to carry  
14 out an actual attack. And she also has no prior record.

03:04 15 Given her age and lack of prior record, the research  
16 would suggest that she poses a very low risk of reoffending.

17 See *United States Sentencing Commission, The Effects*  
18 *of Aging on Recidivism Among Federal Defenders*, at page 25.

19 And the doctor's testing suggests the same.

03:04 20 While I don't accept the defendant's history of abuse  
21 and mental health issues as an excuse for her conduct, I won't  
22 ignore them. With mental health treatment she will hopefully be  
23 able to overcome the pathologies that caused her to seek this  
24 kind of attention.

03:04 25 Given her history and statements and the statements of

1 her family, I do not see her as a hardened jihadist who can't be  
2 reformed and thus must be separated from the public for most of  
3 the rest of her life.

4 That said, I think that the defendant's requested  
03:05 5 sentence is not sufficient. The conduct here was very dangerous  
6 and it went on for a long period of time. Even if she was  
7 motivated by a desire for attention rather than maliciousness,  
8 and even if she did have serious mental health issues, I also --  
9 I need to promote respect for the law and I need to impose a  
03:05 10 sentence that provides deterrence for others.

11 And under all the circumstances I find a sentence of  
12 90 months sufficient but not greater than necessary to satisfy  
13 the purposes of sentencing. This sentence is based on 3553(a),  
14 and would be the same regardless of the guidelines.

03:05 15 Therefore, defendant is committed to the custody of  
16 the Bureau of Prisons for 90 months.

17 Is there a request for a prison recommendation?

18 MR. CAMPION: Given her non-citizenship status I don't  
19 believe that has any impact, but it would be as close to here as  
03:06 20 possible.

21 THE COURT: So ordered.

22 I'm not going to impose any fine.

23 I will impose 3 years of supervised release. Statute  
24 permits supervision up to life, but that's not necessary.

03:06 25 There's a good chance she'll be deported and thus not available

1 for any supervision.

2 Second, she doesn't have a prior record so I don't see  
3 her as posing the degree of risk that would call for supervision  
4 of that length, particularly after serving the prison sentence.

03:06 5 This term will also suffice to address her mental  
6 health needs.

7 I do agree with the government that a computer  
8 monitoring condition is warranted given the nature of the  
9 offense which involved hacking and extensive online activity and  
03:06 10 the need to monitor her computer use for public protection and  
11 to deter further activity of the sort involved in this case.

12 A monitoring condition as opposed to a limitation or  
13 ban on computer use involves no greater deprivation of liberty  
14 than is reasonably necessary for the purposes of 3553(a)(2)(B)  
03:07 15 and (C).

16 While she's on release she can't commit any crimes.

17 Can't illegally possess or use any controlled  
18 substance. I find a low risk of substance abuse so I'm going to  
19 waive testing.

03:07 20 From the PSR she has to comply with conditions 1  
21 through 14, with any payments conditioned on ability to pay.

22 And to -- she can't possess or use a computer as  
23 defined in 18 U.S.C. § 1030(e)(1) at any location including  
24 employment without prior notice to the supervising probation  
03:07 25 officer.

1           She has to allow the probation officer to install  
2 computer monitoring software on any computer as defined in  
3 18 U.S.C. § 1030(e)(1) to ensure compliance with the computer  
4 monitoring provision.

03:08 5           She must allow the probation officer to conduct  
6 initial and periodic unannounced searches of any computers  
7 subject to computer monitoring.

8           Special assessment's a hundred dollars due immediately  
9 in Room 362.

03:08 10          Defendant has a right to appeal if she thinks there's  
11 something unlawful. Counsel has a duty to advise her of her  
12 rights. Any notice of appeal has to be filed within 14 days of  
13 the entry of judgment. If defendant wants to appeal and can't  
14 afford to, she can ask for leave to appeal as a poor person.

03:08 15          I'll dismiss Count 2.

16          And I wish the defendant the best.

17          (Proceedings concluded at 3:08 p.m.)

18                   \*    \*    \*

C E R T I F I C A T E

I, JOHN T. SCHINDHELM, RMR, CRR, Official Court  
Reporter for the United States District Court for the Eastern  
District of Wisconsin, do hereby certify that the foregoing  
pages are a true and accurate transcription of my original  
machine shorthand notes taken in the aforementioned matter to  
the best of my skill and ability.

Signed and Certified September 14, 2020.

/s/John T. Schindhelm

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